

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

ROSCOE ROCK AND SAND, INC.)	
)	
Plaintiff,)	Case No. 08-cv-4091
)	
v.)	Judge Hart
)	Magistrate Judge Mason
INTERNATIONAL UNION OF OPERATING)	
ENGINEERS, LOCAL 150, AFL-CIO)	
)	
Defendant.)	

DEFENDANT'S MOTION TO DISMISS

Defendant, International Union of Operating Engineers, Local 150, AFL-CIO ("Local 150"), by and through its attorneys, moves to dismiss Plaintiff's Complaint and Petition for Declaratory Judgment and Permanent Injunction to Stay Arbitration pursuant to Rule 12(b)(1), and Rule 12(b)(6) of the Federal Rules of Civil Procedure. Local 150 supports this Motion with the Memorandum of Law that is being filed with this Court contemporaneously.

WHEREFORE, for all the reasons set forth in Defendant's Memorandum in Support of its Motion to Dismiss, Local 150 respectfully requests that this Court dismiss Plaintiff's Complaint and Petition for Declaratory Judgment and Permanent Injunction to Stay Arbitration in its entirety.

Date: August 11, 2008

Respectfully submitted,

INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL 150, AFL-CIO

By: s/Bryan P. Diemer
One of the Attorneys for Defendant Local 150

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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that on August 11, 2008, he electronically filed *Defendant's Motion to Dismiss* with the Clerk of Court using the CM/CM/ECF system which sent notification to the following:

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